

**ASSESSMENT COOPERATIVE AGREEMENT WORK PLAN**

FOR

THE CITY OF ANDERSON PETROLEUM  
BROWNFIELDS ASSESSMENT PROJECT

May 30, 2008

Submitted by

SOUTH CAROLINA DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL CONTROL  
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South Carolina Department of Health and Environmental Control

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## **1.0 INTRODUCTION**

### **1.1 Project Description**

The City of Anderson, South Carolina, is in Anderson County located along Interstate Highway 85 in the Upstate region of South Carolina. The City has a population of 25,514 people and is the county seat. From the late 1800s thru the 1980s, textile mills employed a large portion of the City's workforce. Each mill and their accompanying mill village formed a distinct community within the city. At one time there were 12 mills operating in or around the City. Numerous corner service stations and bulk fuel plants served the needs of the mill villages. The textile mills began closing in the 1970s. Each closure resulted in shuttered stores and homes, deteriorating buildings, and high unemployment. In the 1990's, fires destroyed or partially destroyed four area mill sites, and concerned citizens and government continue to struggle with adaptive reuse possibilities of these properties. The Anderson Mill site burned again in July 2007 and damaged several adjacent homes. Two mills are in operation today with a greatly reduced workforce. Infrastructure such as water and sewer lines built for the mill villages is deteriorating.

After the adoption of a Downtown Master Plan in 1996 and a host of public and private improvements, redevelopment potential in downtown Anderson's Main Street corridor reached an all-time high. However, in the outlying areas developers are struggling with the challenges of properties in the mill villages that include deteriorating buildings, former gas stations, abandoned mill sites and tire and junk warehouses, all remnants of downtown's pre-development phase.

The project objectives are:

1. Identify petroleum brownfield sites through community meetings, existing SCDHEC lists, and historical sources;
2. Prioritize sites for evaluation based upon the City's and community's input;
3. Contact property owners at eligible sites and attempt to obtain access to the properties;
4. Perform a Phase I environmental site assessment if appropriate;
5. Locate any underground storage tanks (USTs) or aboveground storage tanks (ASTs) at the site;
6. Assess the site to determine if petroleum contamination is present;
7. If petroleum contamination is present and it is appropriate, continue the assessment of the site;
8. Compile a list of known petroleum sites and the status of petroleum-related releases to be provided to the City to aid in redevelopment efforts.

The project's goal is to identify, assess, and address potential petroleum contamination so that it does not impede the redevelopment of the property.

### **1.2 Organizational Structure and Responsibilities**

The Underground Storage Tank Program is located in the Bureau of Land and Waste Management. An organizational chart for the Bureau of Land and Waste Management and the Underground Storage Tank Program is included in Appendix A. Daphne Neel is Chief of the Bureau of Land and Waste Management. Stan Clark is an Assistant Bureau Chief and oversees the Underground Storage Tank Program.

Stan Clark supervises the director of the Regulatory Compliance Division (position is vacant), and Don Siron, Director, Assessment & Corrective Action Division. The Regulatory Compliance Division and the Assessment & Corrective Action Division of the Underground Storage Tank Program will be responsible for implementing project objectives. The Petroleum Brownfields Coordinator, Mark Berenbrok, is located in the Regulatory Compliance Division and will serve as the overall coordinator for the project and will be the South Carolina Department of Health and Environmental Control point of contact for the project.

## **2.0 PROJECT TASK DESCRIPTIONS**

### **Task 1 Project Management And Reporting**

UST Program staff will perform project management as required to implement and manage this project under the cooperative agreement, including all required reporting and contractor procurement.

The Petroleum Brownfields Coordinator for the UST Program is fully-funded through a Federal 128(A) grant. No Brownfield grant funds will be used for Project Management and Reporting costs. EPA grant funds in the amount of \$199,800 are budgeted for Contractor Procurement. EPA grant funds in the amount of \$0 are budgeted to perform the following subtasks:

- A) **Project Management:** South Carolina Department of Health and Environmental Control staff will perform those activities necessary to manage the project in accordance with the work plan and all required statutes, circulars, terms and conditions, including establishment and maintenance of necessary cooperative agreements records and files, financial management, project oversight, and attendance at necessary project meetings.

- B) **Periodic Reporting:** South Carolina Department of Health and Environmental Control staff will prepare and submit project progress, financial and MBE/WBE reports.

Deliverables: Quarterly Progress reports within 30 days of the end of each federal fiscal quarter; Financial Status reports at least annually; MBE/WBE reports at least quarterly; Property Profile Form for sites within 30 days of selection.

- C) **Contractor Procurement:** The UST Program will not have to procure a contractor for assessment activities. Based upon competitive solicitations, the UST Program has indefinite delivery contracts with selected contractors to perform standard scopes of work such as Tier I and Tier II assessments. All site assessment activities are conducted by a DHEC certified contractor as required by the State Underground Petroleum Environmental Response Bank Site Rehabilitation and Fund Access Regulations. All site rehabilitation activities require technical approval by the UST Program in accordance with applicable State and Federal directives. In addition to technical approval, pre-approval of all costs is required for payment.

The UST Program will have to procure a contractor for ground penetrating radar studies. The UST Program will follow UST Environmental Remediation Procedures (Appendix B) and EPA competitive procurement standards to obtain this service. The estimated cost is approximately \$800 per site.

- D) **Final Performance Report:** A final performance report will be submitted to the EPA Project Officer within 90 days after the expiration or termination of the award.

## **Task 2 Public Involvement**

UST Program staff will perform public involvement, consistent with the Assessment Grant Proposal submitted, to ensure that community concerns are considered in site identification and selection, assessment planning and execution, and the public is kept informed of project progress and results. EPA grant funds in the amount of \$200 are budgeted to perform the following subtasks:

- A) **Outreach:** The South Carolina Department of Health and Environmental Control will complete a site-specific Public Involvement Plan within 30 days of award of the grant and follow that plan throughout the life of the grant. A 30 day

public comment period will be held prior to the initiation of assessment activities. As part of that plan, the South Carolina Department of Health and Environmental Control will designate a spokesperson, establish an information repository, and do at least two fact sheets (one at the beginning of the grant and one after the site results are available). Cost: \$0. Deliverable: Public Involvement Plan with first quarterly report.

- B) **Project Updates and other Public Information:** A plain language fact sheet will be prepared and distributed to the affected community at the beginning of the project, and an additional fact sheet will be prepared and distributed after the assessment is complete. Additional fact sheets may be prepared if there are new developments or delays. Cost: \$0. Deliverables: At least two fact sheets.

### **Task 3      Site Inventory and/or Characterization**

- A) **Site Inventory:** The inventory of Petroleum Brownfields in Anderson will complement the City's long-range development plan and also incorporate those areas or specific sites identified during community outreach meetings. A key component of the inventory effort will be compare the list of sites developed from the City and community meetings with those in the South Carolina Department of Health and Environmental Control Underground Storage Tank Program database. The South Carolina Department of Health and Environmental Control Underground Storage Tank Program has an extensive database that includes over 19,200 facilities, 45,000 underground storage tanks, and 8,833 confirmed releases. Some sites in the City are already in the Underground Storage Tank Program database. In some cases assessment may have been completed or is ongoing. In those instances the database information will be provided to the City and community and, if appropriate, the site will be considered for inclusion in the assessment phase of the project. A Master List of all potential sites will be compiled and each site will be tracked throughout the duration of the project. The Master List will be updated twice yearly and will be available for review in the information file maintained at the Anderson County Public Library.

The community will be notified of the project and community outreach meetings through the following means:

- Public notices posted at the Anderson City Hall and Anderson County Public Library branches located in the city;
- Public service announcements on the City's television channel and web-site;
- Public notices posted in the Anderson Independent-Mail, the local newspaper;
- The City will provide a list of community and business organizations. Announcements will be sent to their officers;
- A public presentation will be made to a regularly scheduled meeting of the Anderson City Council;
- A presentation will be made to the Electric City Community Council. The City has created the Electric City Community Council, which consists of city leaders and representatives of the existing seven neighborhood organizations. The group's mission is to meet quarterly to discuss issues, problems, resources, and best practices for solutions.

The public notices will be written in plain language, include information concerning the project and project area, and include the name and contact information for the South Carolina Department of Health and Environmental Control Petroleum Brownfields Coordinator. Comments will be accepted by telephone, e-mail, comments at public meetings, or in writing.

An Information Sheet concerning the project will be provided at public meetings and will include the name, telephone number, mailing address, and e-mail address of the Petroleum Brownfields Coordinator of the Underground Storage Tank Program.

A Master List of all sites will be updated twice a year and will be kept with the information repository. Cost: \$0. Deliverable: Master List will be created within 45 days of first public meeting.

**B) Candidate Site Identification:** The Petroleum Brownfield Coordinator of the Underground Storage Tank Program is the South Carolina contact for determining if sites are eligible for Brownfields grant funding. The Underground Storage Tank Program will apply South Carolina laws and regulations to eligibility determinations.

**C) Property Profile Form:** The Petroleum Brownfield Coordinator of the Underground Storage Tank Program will South Carolina Department of Health and Environmental Control

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insure property profile information is entered into the EPA ACRES database within 30 days of site selection. Site information will be updated as the site progresses through the assessment process. Cost: \$0. Deliverable: Property Profile Form will be created within 30 days of site selection.

D) **Clear Area:** If required, UST Program staff will coordinate with City of Anderson representatives to clear vegetation and debris at sites in preparation for ground penetrating radar survey and/or assessment activities. Cost: \$0. Deliverable: Summary paragraph of clearing activities as part of the next quarterly report. City of Anderson activities will be reported as leveraged resources.

E) **Ground Penetrating Radar:** If required, UST Program staff will select a contractor to perform a ground penetrating radar study at sites. The UST Program will follow UST Environmental Remediation Procedures (Appendix B) and EPA competitive procurement standards to obtain this service. Cost: Approximately \$800. Deliverable: Summary paragraph describing results of ground penetrating radar study as part of the next quarterly report.

F) **Site Characterization – Phase I Assessment:** A detailed site history will be compiled by the Underground Storage Tank Program for each site. If significant data gaps remain, a Phase I Environmental Site Assessment will be performed. Phase I Environmental Site Assessments will cost approximately \$1800 each. Cost: Approximately \$1800 each. Deliverable: ASTM Phase I Site Assessment report and summary paragraph describing Phase I Site Assessment and key findings as part of the next quarterly report.

G) **Site Characterization – Phase II Assessment:** Tier I and Tier II Assessment: UST Program staff will direct contractor to perform a Tier I Assessment at the site. A Tier II assessment will be performed if the Tier I Assessment fails to delineate the extent of petroleum contamination at the site or risk-based corrective action standards indicates cleanup is required. Cost: Tier I Assessment \$3200. Tier II Assessment \$15,000-30,000. These efforts will be augmented with state monies where appropriate. The contractors performing the Tier I and Tier II Assessments for the UST Program have been awarded the contracts after a competitive sealed bidding process. Deliverable: Summary

paragraph describing site assessment performed and key findings as part of the next quarterly report.

- H) **Quality Assurance & Health and Safety Plans:** A Quality Assurance Project Plan will be prepared and submitted to EPA for review and concurrence. An OSHA compliant Health and Safety Plan will be prepared and a copy will be placed in the grant file. Cost: \$0. Deliverables: Quality Assurance Project Plan for EPA approval, and if comments are received, any necessary changes. Health and Safety Plan to file.
- I) **ESA and NHPA:** UST Program staff will contact appropriate state agencies to identify any threatened or endangered species or habitat at or in the vicinity of the sites and contact the State Historic Preservation Officer and any Tribes with an interest in the sites to determine if any historic or cultural resources are present. UST Program staff will evaluate and report whether assessment alternatives appear likely to disturb or harm any species or resources, and if so what mitigation could be done. This information will be presented to EPA a separate letter. Deliverable: ESA/NHPA Letter.

#### **Task 4 Cleanup Planning**

- A) **Analysis of Cleanup Alternatives:** Information about sites and contamination (i.e., exposure pathways, identification of contaminant sources, types and levels of contamination, etc.), cleanup standards, and applicable laws will be addressed in the Tier II Assessment. Deliverable: Copy of Tier II Assessments with next quarterly report.
- B) **Cleanup Plan:** If cleanup is required, the UST Program will follow UST Environmental Remediation Procedures (Appendix B) to obtain this service. Cost: Unknown. Cleanup activities will be addressed with state monies where appropriate. Deliverable: Summary paragraph describing proposed cleanup and key findings as part of the next quarterly report.
- C) **Contractor Procurement:** If cleanup is required, the UST Program will follow UST Environmental Remediation Procedures (Appendix B) to obtain this service. Cost: Unknown. Cleanup activities will be addressed with state monies where appropriate. Deliverable: Summary

paragraph describing proposed cleanup, contractor selection, and key findings as part of the next quarterly report.

**Task 5      State Involvement**

The South Carolina Department of Health and Environmental Control is the state environmental authority.

### 3. SCHEDULE AND DELIVERABLES

The timeframe for the assessment phase of the project is 36 months (July 2008 – June 2011). It is unknown if any cleanups will be required; therefore, a timeframe for cleanups has not been included.

Due Date	Item	EPA Program Manager	Grants	ITEM COMPLETED BY
10/30/08	Quarterly Report 1	X		PBC
01/30/09	Quarterly Report 2	X		PBC
04/30/09	Quarterly Report 3	X		PBC
07/30/09	Quarterly Report 4	X		PBC
10/30/09	Quarterly Report 5	X		PBC
01/30/10	Quarterly Report 6	X		PBC
04/30/10	Quarterly Report 7	X		PBC
07/30/10	Quarterly Report 8	X		PBC
10/10/10	Quarterly Report 9	X		PBC
01/30/11	Quarterly Report 10	X		PBC
04/30/11	Quarterly Report 11	X		PBC
07/30/11	Quarterly Report 12	X		PBC
10/30/08	MBE/WBE Report 1	X (copy)	X	UST Program
01/30/09	MBE/WBE Report 2	X (copy)	X	UST Program
04/30/09	MBE/WBE Report 3	X (copy)	X	UST Program
07/30/09	MBE/WBE Report 4	X (copy)	X	UST Program
10/30/09	MBE/WBE Report 5	X (copy)	X	UST Program
01/30/10	MBE/WBE Report 6	X (copy)	X	UST Program
04/30/10	MBE/WBE Report 7	X (copy)	X	UST Program
07/30/10	MBE/WBE Report 8	X (copy)	X	UST Program
10/10/10	MBE/WBE Report 9	X (copy)	X	UST Program
01/30/11	MBE/WBE Report 10	X (copy)	X	UST Program
04/30/11	MBE/WBE Report 11	X (copy)	X	UST Program
07/30/11	MBE/WBE Report 12	X (copy)	X	UST Program
07/30/11	Final Financial Status Report	X (copy)	X	UST Program
07/2008	Establish Information Repository			PBC
07 & 08/2008	Initial Meetings with Business & Community Groups			PBC
07/2008	Fact Sheet – Project Starting	X (copy)		PBC
08/2008	Public Involvement Plan	X (copy)		PBC
09/2008	Public Meetings with Community Groups			PBC
11/2008	QAPP	X		PBC
11/2008	Health and Safety Plan	X		PBC
11/2008	ESA/NHPA Letter	X		PBC

Due Date	Item	EPA Program Manager	Grants	ITEM COMPLETED BY
11/2008	Contact site owners			PBC
01/2008	Create PPFs in ACRES (update existing sites quarterly)			PBC
01/2009	Begin Phase I ESAs (continue as needed)			PBC
03/2009	Begin Phase II ESAs (continue as needed)			PBC
03/2009	Begin GPR work (continue as needed)			PBC
07/2009	Fact Sheet – Interim (continue as needed)	X		PBC
07/2010	Fact Sheet – Interim	X		PBC
07/2011	Pact Sheet – Project Finish	X		PBC
07/2011	Present Findings To Community	X		PBC, CA
09/2011	Final Report	X		PBC
As needed but at least quarterly	Requests For Reimbursement	X (copy)		UST Finance

CA – City of Anderson

PBC – Petroleum Brownfield Coordinator, Underground Storage Tank Program

UST Program – Underground Storage Tank Program

UST Finance Section

4. Budget

Budget Categories	Project Tasks			Total
	Ground Penetrating Radar	Assessment	Community Outreach	
Personnel*	0	0	0	0
Fringe* Benefits	0	0	0	0
Travel*	0	0	0	0
Equipment*	0	0	0	0
Supplies	0	0	200	200
Contractual	9,600	189,200	1,000	199,800
Other	0	0	0	0
Total Direct Charges	9,600	189,200	1,200	200,000
Indirect Costs	0	0	0	0
Total	9,600	189,200	1,200	200,000

\*The Underground Storage Tank Program has one full-time, fully funded employee whose responsibility is coordinating Petroleum Brownfield Assessment and redevelopment. This employee will administer and coordinate this project. The position is funded through a Federal 128(A) grant. Travel and Equipment costs will be funded through other sources within the Underground Storage Tank Program.

**Ground Penetrating Radar** – At older sites, several generations of underground storage tanks may have existed. The status of underground storage tanks previously used at a site may not be known. Underground storage tanks taken out of use by earlier owners are often unknown to subsequent owners, and surface features such as fill ports may have been paved over. A ground penetrating radar study will be performed at appropriate sites to determine if underground storage tanks are present and to locate any below grade structures. Even if no underground storage tanks are found, the ground penetrating radar study can identify product piping, former underground storage tank excavations, or obstructions. This information will help to optimize the placement of soil borings and monitoring wells installed during assessment. Not all sites will require a ground penetrating radar study. We anticipate conducting 12 ground penetrating radar studies at \$800 each.

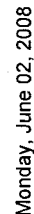
**Assessment** – Site assessment will be performed in several phases as described below:

- **History and/or Phase I Environmental Site Assessment** – A detailed site history will be compiled by the Underground Storage Tank Program for each site. If significant data gaps remain, a Phase I Environmental Site Assessment will be performed. We anticipate requiring 12 Phase I Environmental Site Assessments at \$1800 each.
- **Tier 1 Assessment** – A Tier 1 Assessment will be performed at each site. The Tier 1 Assessment includes the installation of three permanent monitoring wells and eight soil borings with sampling, a survey of receptors within 1000 feet, a surveyed map, two aquifer slug tests, and evaluation of documented contaminant concentration with respect to risk based screening levels. We anticipate performing 25 Tier 1 Assessments at \$3,200 each.
- **Tier 2 Assessment** - If additional assessment is required to fully evaluate the petroleum contamination, a Tier 2 assessment will be performed. Tier 2 assessments are customized depending upon site conditions. The cost for a Tier 2 assessment can range from \$15,000 to \$30,000. These efforts will be augmented with state monies where appropriate. We anticipate requiring 6-12 Tier 2 Assessments.

**Community Outreach** – A presentation of findings will be made to stakeholders and community organizations throughout the life of the project and an information repository or the project will be established at the main branch of the Anderson County Public Library in downtown Anderson. A copy of assessment reports, correspondence, lists, information sheets, and the Master List will be kept on file for public review. Public meetings will be announced through Public Notices at the Anderson City Hall, the City of Anderson branches of the Anderson County Public Library, newspaper notices, community newspapers, and the City's television channel and web site. Meetings with community groups will also be made. Printed materials will be developed and provided by the Department's in-house resources and funded through other sources.

## Appendix A

### Bureau of Land and Waste Management Organizational Chart



## Appendix B

### Underground Storage Tank Environmental Remediation Procedures



September 15, 1999

**SC Department of Health and Environmental Control (SC DHEC)**

**UNDERGROUND STORAGE TANK**

**ENVIRONMENTAL REMEDIATION PROCEDURES**

**Definitions**

Definitions of Terms used in these procedures:

1. **"Assessment"** means the process of collecting environmental data for the purpose of determining the extent, severity and potential for migration of chemicals of concern, and may include the interpretation of data and/or the determination and evaluation of potential risks posed by said chemicals of concern to human health and/or the environment.
2. **"Corrective Action"** means those activities conducted to reduce or eliminate concentrations of chemicals of concern. These activities may include removal of free product or contaminated soil; vapor extraction; in-situ and ex-situ ground-water treatment; installation of caps, slurry walls or liners; bioremediation; and intrinsic processes.
3. **"Defined Scope of Work"** means any assessment or corrective action where the requirements and specifications are outlined.
4. **"Environmental Remediation"** means any activities necessary to assess and/or perform corrective action on soils, ground water and surface waters affected by chemicals and other pollutants of concern.
5. **"Underground Storage Tank Environmental Remediation"** means any activities necessary to assess and/or perform corrective action on soils, ground water and surface waters affected by chemicals and other pollutants of concern due to a release from an underground storage tank.

## **UNDERGROUND STORAGE TANK ENVIRONMENTAL REMEDIATION PROCEDURES**

**Purpose:** The South Carolina Budget and Control Board has granted the Department of Health and Environmental Control (DHEC) an exemption to the South Carolina State Procurement Code for Environmental Remediation with the requirement that DHEC develop procedures to effectively and efficiently procure services for underground storage tank (UST) environmental remediation projects.

**Scope:** These procedures apply to the direct procurement of UST environmental remediation services by DHEC, as authorized by the "Resource Conversion Recovery Act, Subtitle I" (LUST) and the "State Underground Petroleum Environmental Response Bank (SUPERB) Act." Under LUST a federal program, and SUPERB, a South Carolina state program, DHEC is authorized to procure environmental remediation services to investigate and cleanup sites with petroleum releases from regulated underground storage tanks. In the SUPERB program, UST site owners or operators have the option utilize the services procured directly by DHEC or to obtain services independently. These procedures do not affect payment from the SUPERB account to UST owners or operators or contractors retained by UST owners or operators.

For any amendments to an underground storage tank environmental remediation project, DHEC shall negotiate a change order with the successful offeror. A change order modifies one or more of the following: scope, time, or cost. All documentation regarding the solicitations, including change orders will be maintained in the procurement file.

### **I. PROCEDURES FOR PROJECTS WHERE THE SCOPE OF UNDERGROUND STORAGE TANK ENVIRONMENTAL REMEDIATION IS DEFINED.**

Competitive solicitations shall apply to contracts with **defined** scope, where the requirements and specifications are outlined where DHEC determines that the competitive solicitation method is the most practicable or advantageous to the State. DHEC shall determine when the activities are sufficiently defined. DHEC shall awards contracts for environmental remediation services based on competitive solicitations for small purchases (up to \$25,000.00), and for solicitations greater than \$25,000.00, DHEC shall use the competitive sealed biddings, multi-step competitive sealed bidding, or competitive sealed proposal processes. For contracts that have been established using the competitive solicitation process, additional projects similar in scope may be added as long as the contract is still in effect and the vendor agrees to the additional work at the prices quoted in the original contract.

**A. SMALL PURCHASES (up to \$25,000.00).** These procedures apply to the procurement of environmental remediation services not predicted to exceed \$25,000.00 for the UST environmental remediation projects. These procurements shall not be artificially divided so as to constitute a small purchase under this section. In estimating the total dollar amount to determine one of the bidding categories, the amount shall include any shipping, handling, packaging and installation charges, excluding S.C. Sales Tax. Any award made under the Small Purchases process is not grievable under Section IV. of these procedures. Once a contract is established using one of the four Small Purchase category procedures outlined below, additional projects similar in scope can be added as long as the contract is still in effect and the vendor agrees to the additional work at the prices quoted in the original contract and the total dollar amount for that category is not exceeded.

**Competition requirements for categories small purchases:**

- |   |  |
|---|--|
| 1. Purchases not in excess of \$1,500.  | 1 quote (verbal or written) and a statement that the "Price is Fair and Reasonable." |
| 2. Purchases from \$1,501 to \$5,000.   | Verbal or written solicitations sent to 3 qualified offerors.                        |
| 3. Purchases from \$5,001 to \$10,000.  | Written Solicitation and sent to at least 3 qualified offerors.                      |
| 4. Purchases from \$10,001 to \$25,000. | Written Solicitation advertised at least once in the SCBO.                           |

**B. COMPETITIVE SEALED BIDDING.** Contracts predicted to exceed \$25,000.00 with defined scope where the requirements and specifications are outlined may be awarded by the competitive sealed bidding method. A written single invitation for bid may be issued for projects that can be grouped together and competitively bid. The invitation for bid should be issued in an efficient and economical manner and at least advertised in the *South Carolina Business Opportunities (SCBO)* publication. The invitation for bid should include the specifications and the requirements and all contractual terms and conditions applicable to the procurement. The invitation for bid should be processed in accordance with the following procedures.

(1) **Notice.** Adequate notice of the invitation for bid shall be given to the listed sources with a reasonable time prior to the date set forth therein for the opening of bids.

(2) **Receipt and Safeguarding of Bids.** All bids (including modifications) received prior to the time of opening shall be kept secure and unopened in a locked box or safe.

(3) **Bid Opening.** Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as may be specified by regulation, together with the name of each bidder, shall be tabulated. The tabulation shall be made open to the public for inspection at the time.

(4) **Bid Acceptance and Bid Evaluation.** Bids shall be accepted unconditionally without alteration or correction, except as otherwise authorized in these procedures. The invitation for bids shall set forth the evaluation process to be used.

(5) **Correction, Withdrawal of Bids, or Cancellation of Awards.** Correction or withdrawal of inadvertently erroneous bids before bid opening, withdrawal of inadvertently

erroneous bids after award, or cancellation and re-award of awards or contracts after award but prior to performance, may be permitted in accordance with these procedures. After bid opening, no changes in bid prices or other provisions of bid prejudicial to the best interest of the State or fair competition shall be permitted. To maintain the integrity of the competitive sealed bidding system, a bidder shall not be permitted to correct a bid mistake after bid opening that would cause such bidder to have the low bid unless the mistake in the judgment of the procurement officer is clearly evident from examining the bid document; for example, extension of unit prices or errors in addition. All decisions to permit the correction or withdrawal of bids, or to cancel awards, or contracts after award but prior to performance shall be supported by a written determination of appropriateness made by the DHEC Director of Procurement Services. Each written determination must document that fact that the bidder's or offeror's mistake is clearly evident and that correction of said error shall not affect actual unit rates included in the bid.

(6) **Tie Bids.** If two or more bidders are tied in price while otherwise meeting all of the required conditions, awards are determined as follows:

(a) If there is a South Carolina firm tied with an out-of-state firm, the award must be made automatically to the South Carolina firm.

(b) Tie bids involving South Carolina firms must be resolved in favor of the South Carolina firm located in the same taxing jurisdiction as the project location.

(c) Tie bids involving South Carolina firms in the same taxing jurisdiction as the project location must be resolved by the flip of a coin in the office of the DHEC Director of Procurement Services witnessed by all interested parties. The same procedures shall apply where both firms are outside the taxing jurisdiction of the project location.

(7) **Award.** Notice of award of a contract to the lowest responsive and responsible bidder whose bid meets the requirements set forth in the invitation for bids shall be given by posting such notice at a location specified in the invitation for bids. The invitation for bids and the posted notice must contain a statement of a bidder's right for grievance outlined in Section IV of these procedures and the date and location of posting must be announced at the bid opening. The posted notice will be displayed on the Bureau of Business Management's Procurement bulletin board located at 2600 Bull Street at the back entrance of the Aycock Building directly across from the Office of Personnel and next to the Bureau of Business Management's Purchasing Department.

(8) **Negotiations After Unsuccessful Competitive Bidding.** When bids received pursuant to an invitation for bids under Section II. A of these procedures are unreasonable, or the low bid exceeds available funds as certified by the appropriate fiscal officer, and it is determined in writing by the DHEC Director of Procurement Services, or his designee, that time or other circumstances may not permit the delay required to resolicit competitive sealed bids, a contract may be negotiated pursuant to this section, provided that:

(a) each responsible bidder who submitted a bid under the original solicitation is notified of the determination and is given reasonable opportunity to negotiate;

(b) the negotiated price is lower than the lowest rejected bid by any responsible and responsive bidder under the original solicitation;

(c) the negotiated price is the lowest negotiated price offered by any responsible and responsive offeror.

### C. REQUEST FOR QUALIFICATIONS

(1) **Condition for Use.** When it is considered initially impractical to prepare a purchase description to support an award based on price, a request for qualifications may be issued requesting submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(2) **Request for Qualifications.** Prior to soliciting bids, the authorized DHEC procurement officer may issue a request for qualifications from prospective offerors. Such a request shall contain, at a minimum, the general scope of work, a description of the environmental remediation equipment, the processes or services to be solicited by the competitive sealed bid, the deadline for submitting information and how prospective offerors may apply for consideration. The request shall require information only on qualifications, experience, and ability to perform the requirements of the contract.

(3) **Public Notice.** Adequate public notice of the request for qualifications shall be given with a reasonable time period prior to the date established for the submission of the required information. Such notice shall include the utilization of bidders' lists, if established, and the advertisement in the *South Carolina Business Opportunities (SCBO)* publication under the category of **Environmental Remediation**.

(4) **Selection and Ranking.** After receipt of the responses to the request for qualifications from prospective offerors, the prospective offerors shall be ranked from most qualified on the basis of the information provided. Bids shall then be solicited from at least the top two prospective offerors by means of a competitive sealed bid. The failure of a prospective offeror to be selected normally is not grounds for grievance under Section IV of these procedures. However, if a letter of concern is submitted, only information contained in the bid and response packages will be considered.

(5) The steps outlined in Section I. B., Competitive Sealed Bidding procedures, Paragraphs (2) through (8) apply.

### D. COMPETITIVE SEALED PROPOSALS

The request for qualifications procedures described above or the procedures outlined below may be used with the competitive sealed proposal method.

(1) **Conditions for Use.** When the Chief Operating Officer or his designee determines in writing that the use of the competitive sealed bidding process outlined in B and C of these procedures along are either not practicable or not advantageous to the State, a contract may be entered into by competitive sealed proposal subject to the provisions of these procedures. Proposals shall be advertised in SCBO.

(2) **Evaluation Factors.** The request for proposals shall state the relative importance of the factors to be considered in evaluating proposals but shall not require a numerical weighting for each factor. Price may, but need not be an initial evaluation factor.

(3) **Discussion with Responsive Offerors.** Discussions may be conducted with prospective offerors who submit proposals for the purpose of clarification to assure full understanding of the requirements of the request for proposals. All offerors, whose proposals, in DHEC's sole judgment, needed clarification shall be accorded such an opportunity.

**(4) Selection and Ranking.** Proposals shall be evaluated using only the criteria stated in the request for proposals and adhering to any weighting that have been previously assigned. Once the evaluation is complete, all responsive offerors shall be ranked from the most advantageous to the least advantageous to the State, considering only the evaluation factors stated in the request for proposals. If price is an initial evaluation factor, awards shall be made in accordance with (5) below. If price is not an initial evaluation factor, negotiations shall be conducted with the top ranked offeror for the performance of the contract at a price, which, in the sole opinion of DHEC, is fair and reasonable to the State. Should the procurement official be unable to negotiate a contract at a price which, in the sole opinion of DHEC, is fair and reasonable to the State, negotiations shall be formally terminated with the top ranked responsive offeror and negotiation commenced with the second most advantageous responsive offeror, and then the third and so on until a satisfactory contract has been negotiated. In conducting negotiations, there must be no disclosure of any information derived from proposals submitted by competing offerors.

**(5) Award.** Award must be made to the responsive offeror whose proposal is determined in writing to be the most advantageous to the State, taking into consideration price and the evaluation factors set forth in the request for proposals, unless DHEC determines to use one of the options provided in (6) below. The contract file shall contain the basis on which the award is made and must be sufficient to satisfy an external audit. The posted notice will be displayed on the Bureau of Business Management's Procurement bulletin board located at 2600 Bull Street at the back entrance of the Aycock Building directly across from the Office of Personnel and next to the Bureau of Business Management's Purchasing Division.

**(6) Other.** If, after following the procedures set forth in (4) and (5) above, a contract is not able to be negotiated, the scope of the request for proposals may be changed in an effort to reduce the cost a fair and reasonable amount, and all responsive offerors must be allowed to submit their best and final offers. Where the price was an initial evaluation factor, the DHEC procurement official, may in his sole discretion, proceed in any of the following indicated below:

(a) negotiate price with the highest scoring offeror. If a satisfactory price cannot be agreed upon, price negotiations may be conducted, in the sole discretion of DHEC with the second, and then the third, and so on, ranked offerors to such level of ranking as determined by DHEC in its sole discretion; or

(b) negotiate with the highest-ranking offeror on matters affecting the scope of the contract, so long as the overall nature of intent of the contract is not changed. If a satisfactory contract cannot be negotiated with the highest ranking offeror, negotiations may be conducted, in the sole discretion of DHEC, with the second, and then the third, and so on, to such level of ranking as determined by DHEC in its sole discretion; or

(c) change the scope of the request for proposals and give all responsive offerors an opportunity to submit their best and final offers.

## **II. PROCEDURES FOR PROJECTS WHERE THE SCOPE OF UNDERGROUND STORAGE TANK ENVIRONMENTAL REMEDIATION IS NOT DEFINED.**

When the nature of the project is of such complexity that the scope of the environmental remediation activity is not defined, then DHEC shall use the following procedures:

**A. Selection Committee.** DHEC shall establish its own underground storage tank environmental remediation selection committee, hereinafter referred to as the UST selection committee, which shall be composed of those individuals whom the Bureau Director of the UST Program determines to be qualified to make an informed decision as to the most competent and qualified firm for the proposed services. The Director of Procurement Services or his qualified and responsible designee, shall sit as a permanent member of the UST selection committee for the purpose of coordinating and accounting for the committee's work. To assist the committee in the selection of firms to be employed for significant or highly technical projects and to facilitate prompt selections, the committee may invite the State Engineer or his designee to sit as a nonvoting member of the committee.

**B. Advertisement of Project Description.** The UST selection committee shall be responsible for (a) developing a description of the proposed contract, (b) enumerating all required underground storage tank environmental remediation activities, and (c) preparing a formal invitation to firms for submission of information. The invitation shall include, but not be limited to, the project title, the general scope of work, and a description of the corrective action required for the project, the submission deadline, and how interested firms may apply for consideration. The number of persons or firms to be selected shall be specified in the invitation. The invitation shall be formally advertised in the *South Carolina Business Opportunities (SCBO)* publication under the category of **Environmental Remediation**.

**C. Response to Invitation.** The date for submission of information from interested persons or firms in response to an invitation shall be not less than fifteen days after publication of the invitation. Interested underground storage tank environmental remediation contractors shall be required to respond to the invitation with the submission of a current and accurate Federal Standard Forms 254 and 255 or such similar information which DHEC may require.

**D. Interviews and Interested Firms.** Following receipt of information from all interested persons and firms, the UST selection committee shall hold interviews with at least five persons or firms who have responded to the committee's advertisement and who are deemed most qualified on the basis of information available prior to the interviews. If fewer than five firms have responded to the advertisement, the committee shall hold interviews with those that did respond. The committee's determination as to who will be interviewed shall be in writing and shall be based upon its review and evaluation of all submitted materials. The written report of the committee shall specifically list the names of all persons and firms that responded to the advertisement and enumerate the criteria the committee used in selecting those to be interviewed. The purpose of the interview shall be to provide such further information as may be required by the committee to fully acquaint itself with the relative qualifications of the several interested firms.

**E. Selection of the Best Qualified.** The UST selection committee shall evaluate each of the persons or firms interviewed in view of their:

- (1) past performance;
- (2) the ability of professional personnel;
- (3) willingness to meet time and budget requirements;
- (4) location;
- (5) recent, current, and projected workloads;
- (6) creativity and insight related to the project; and
- (7) related experience on similar projects.

Based upon these evaluation criteria, the committee shall select the persons or firms who, in its judgment, are the best qualified. The list of persons or firms will be used by DHEC depending on the requirements of the project. The committee's report of the chosen persons or firms shall be in writing and shall include data substantiating its determinations. Depending on the circumstance, DHEC will consider costs in the evaluation of all offerors.

**F. Notice of Selection.** When DHEC determines that the selection report is final, written notification of the selection shall be immediately sent to all those who responded to the UST selection committee's invitation to submit information. The list of selected sources shall be effective for a period of one year. No later than thirty (30) days prior to the expiration date of the list, the selection committee may exercise an option either to cancel the list and issue a new solicitation or extend the term of the list for additional one-year periods up to a total of five years. When appropriate, DHEC reserves the right to solicit for additional firms at any time during the effective period of the list of selected sources. When DHEC determines there is a need to add additional firms to the list of offerors, DHEC shall issue a new solicitation using the same selection criteria and interview process established when the original list was developed. Those firms on the original list need not respond since they have already been through the selection process. DHEC shall maintain both solicitations as separate procurements. Also, when appropriate DHEC reserves the right to delete offerors from the list of selected sources for cause. Whenever a deletion is made, DHEC UST selection committee may select the next best-qualified offeror from the remaining offerors on the original list of selected sources. The failure of a prospective offeror to be selected normally is not grounds for grievance under Section IV of these procedures. However, if a letter of concern is submitted, only information contained in the bid and response packages will be considered.

**G. Negotiations with a Qualified Offeror.** If the scope of a project is of such complexity, of immediate nature, or of such an unknown quantity that the use of the other procurement methods is either not practicable or not advantageous to the State, then DHEC shall negotiate with the best-qualified person or firm. DHEC reserves the right to select the best-qualified person or firm depending on the general scope of the project. Where "best qualified" is the primary factor and cost is secondary, DHEC shall negotiate the cost with the best-qualified person or firm. If no agreement is reached, negotiations shall commence in the same manner with the next best-qualified person or firm until a satisfactory contract is negotiated. If the nature of the project is such that the "best qualified" is not the primary factor, or is unable to be determined, but price is the primary factor, then DHEC may request pricing from all qualified persons or firms on the list for the purpose of negotiating a contract. If no agreement is reached with one of the original listed offerors, the UST selection committee may select additional persons or firms from the remaining pool of interviewees.

If unsuccessful with the remaining pool of interviewees, the UST selection committee may contact additional firms for interviews using the same selection criteria established when the original list was developed. The successful interviewees will be added to the list.

### **III. OTHER PROCUREMENT METHODS FOR USE WITH UNDERGROUND STORAGE TANK ENVIRONMENTAL REMEDIATION PROJECTS -**

**A. Sole Source Procurement:** A contract for an underground storage tank environmental remediation project may be awarded without competition when the Chief Operating Officer, or his designee, determines in writing that there is only one source for the required project. Written documentation must include the determination and the basis for the proposed sole source procurement and why no other vendor is suitable. In cases of reasonable doubt, competition shall be solicited. All sole source procurements will be reported quarterly to the Materials Management Office under the Office of General Services, which is directed by the Budget and Control Board.

**B. Emergency Procurement.** The Chief Operating Officer may approve emergency procurements for an underground storage tank environmental remediation project only when there exists an immediate threat to public health, welfare, critical economy and efficiency, or safety under emergency conditions, provided that such emergency procurements shall be made with as much competition as is practicable under the circumstances. The UST Program area has the authority to determine the course of action to proceed in an emergency situation. Within three working days, the UST Program area will provide DHEC Procurement Services with a written determination of the basis for the emergency and the selection of the particular contractor. All documentation, including the Chief Operating Officer approval, shall be maintained in the purchasing file. All emergency procurements will also be reported quarterly to the Materials Management Office.

### **IV. GRIEVANCE PROCEDURES FOR UNDERGROUND STORAGE TANK ENVIRONMENTAL REMEDIATION SOLICITATIONS -**

The following grievance procedures are provided.

**A. Solicitation of a Contract.** Subject to conditions set forth in these procedures, any prospective bidder who is aggrieved in connection with the solicitation of a contract for underground storage tank environmental remediation shall submit a letter of concern to the DHEC procurement officer responsible for the solicitation within fifteen calendar days of the date of issuance of the Invitation for Sealed Bids or the Request for Proposals, whichever is applicable, or any amendment thereto if the amendment is at issue. A grievance shall be in writing and shall set forth the grounds of the grievance and the relief requested with enough particularity to give notice of the issues to be decided. A fax of the letter, followed by a post-marked signed original letter is acceptable. After the Director of Procurement Services, or his designee, has been notified, DHEC may attempt to informally resolve the dispute. If the dispute cannot be resolved, the Director of Procurement Services will determine whether the dispute merits altering the solicitation and will provide a written response

within five working days of the receipt of the letter.

**B. Award of a Contract.** Any actual bidder who is aggrieved in connection with the award of a contract shall submit a letter of concern to the DHEC procurement officer responsible for the solicitation within seven calendar days of the award publication date. Processes are the same as A above.

**C. Secondary Review and Decision.** If the bidder is not satisfied with the decision rendered by the Director of Procurement Services, the bidder shall notify the Director of the Bureau of Business Management in writing within ten calendar days of the date of the written response from the Director of Procurement Services. The Director of the Bureau of Business Management will conduct a review and provide a written response within five working days. The decision of the Director of the Bureau of Business Management shall be final and conclusive. If the aggrieved is not satisfied with the decision rendered in A or B above and this section, and wishes to pursue legal action, the aggrieved, or his legal representative, shall notify in writing the Chief Operating Officer within ten calendar days of the date of the written response from the Director of the Bureau of Business Management.

**D. Notice of Decision.** A copy of all decisions under this section shall be mailed or otherwise furnished immediately to the aggrieved party and any other party intervening.

**E. Stay of Procurement during Grievances.** In the event of a timely grievance under subsections A. or B. above, DHEC shall not proceed further with the solicitation or award of the contract until the Director of Procurement Services renders a decision. However, the solicitation or award of an aggrieved contract will not be stayed if the Director of Procurement Services makes a written determination that the solicitation or award of the contract without delay is necessary to protect the best interests of the State.

## **V. CONTRACT DISPUTES AND BREACH OF CONTRACT CONTROVERSIES PROCEDURES FOR UNDERGROUND STORAGE TANK ENVIRONMENTAL REMEDiation SOLICITATIONS - DURING THE CONTRACT IMPLEMENTATION PHASE**

**A. Applicability.** These procedures apply to controversies between DHEC, the site owner or operator, and/or a contractor or subcontractor when the subcontractor is the real party in interest, which arise under or by virtue of a contract for underground storage tank environmental remediation including, but not limited to controversies based upon breach of contract, misrepresentation, mistake, or other cause for contract modification or recension. These procedures constitute the exclusive means of resolving a controversy between DHEC, the site owner or operator, and/or a contractor or subcontractor concerning a contract solicited and awarded under the provisions of these procedures.

**B. Complaint against DHEC Program Management - Bureau of Underground Storage Tank (UST) Management.** Site owner or operator, and/or a contractor or subcontractor when the

subcontractor is the real party in interest has 30 days after the discovery of a contract dispute or controversy to notify in writing the DHEC UST Project Manager or the Director of the Bureau of UST Management of the identification of the dispute or controversy. The Bureau of UST Management has 45 days to review and attempt to informally resolve the dispute or controversy. If the contract controversy cannot be mutually resolved, the Director of the Bureau of UST Management will provide a written, informal determination to the site owner or operator, and/or a contractor or subcontractor when the subcontractor is the real party in interest.

**C. Informal Review and Decision.** If the complainant is not satisfied with the decision made by the Director of the Bureau of UST Management, the complainant should address the issues in writing, within 15 calendar days of the date of the letter, to the Director of Procurement Services for resolution. The request for resolution to the Director of Procurement Services must be in writing and set forth the general nature of the controversy and the relief requested with enough particularity to give notice of the issues to be decided.

**D. Duty and Authority to Attempt to Settle Contract Controversies - Director of Procurement Services.** The Director of Procurement Services will provide a written acknowledgment to the complainant and the Director of the Bureau of UST Management within 5 calendar days of the receipt of the complaint. The Director of Procurement Services, or his representative, shall attempt to mediate a settlement by mutual agreement by the two parties. If a mediation agreement is not approved by both of the complainants and the Director of the Bureau of UST Management, the Director of Procurement Services will provide a written determination within 10 days of the rejection by either party in the dispute.

**E. Secondary Review and Decision.** If, the complainant is not satisfied with the determination made by the Director of Procurement Services, the complainant should address the issues in writing, within 15 calendar days of the date of the letter, to the Director of the Bureau of Business Management for an administrative review and final resolution. The Director of the Bureau of Business Management will conduct a review and issue a written response to the complainant and the Director of the Bureau of UST Management within 15 calendar days after receipt of the complaint. The decision shall state the reasons for the final determination. The decision rendered by the Director of the Bureau of Business Management shall be final and conclusive. If the complainant is not satisfied with the decision rendered in B, C, or D above and this section, and wishes to pursue legal action, the complainant, or his legal representative, shall notify in writing the Assistant Commissioner for DHEC within 15 calendar days of the date of the written response from the Director of the Bureau of Business Management.

**F. Complaints made by DHEC Concerning Contractor Performance.** For complaints against a contractor performance, the Project Manager will make informal complaints directly to the contractor in an attempt to resolve the problems as quickly as possible. If the complaint is not resolved, the Director of the Bureau of UST Management will make a written, informal complaint of the dispute or controversy, with supporting documentation, directly to the Director of the Procurement Services for formal processing. The Director of Procurement Services, or his

representative, shall attempt to mediate a settlement by mutual agreement by the two parties. If a mediation agreement is not approved by both of the complainants and Director of the Bureau of UST Management, the Director of Procurement Services will provide a written determination within 15 calendar days of the rejection by either party in the dispute. If the contractor is not satisfied with the determination provided by the Director of Procurement Services, the contractor should follow the procedures outlined in E above.

**G. Complaints Requiring Immediate Resolution.** For complaints of a serious nature that may have an immediate impact on the health of associated individuals or lead to immediate economic losses, the Director of the Bureau of UST Management has the authority to make this determination with consultation with the Director of Procurement Services or his representative and alter the times and procedures to remedy the immediate threat. The Director of the Bureau of UST Management will provide written documentation to the Director of Procurement Services within 3 working days of the action taken as well as the rationale. DHEC reserves the right to alter the processing days to meet any unexpected contingencies.